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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

MIDWAY MANUFACTURING COMPANY: Deposition of  
vs. : Richard I. Seligman  
THE MAGNAVOX COMPANY :  
and  
SANDERS ASSOCIATES, INC. :  
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74C1030

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION  
THE MAGNAVOX COMPANY, et al :

vs. :  
BALLY MANUFACTURING :  
CORPORATION, et al :  
-----

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ATARI, INC. :  
vs. :  
THE MAGNAVOX COMPANY :  
and :  
SANDERS ASSOCIATES, INC. :  
-----

ERNEST W. NOLIN & ASSOCIATES  
General Stenographic Reporters  
369 ELGIN AVE., MANCHESTER, N. H. 03104  
TELEPHONE: 623-6906

Deposition taken pursuant  
to subpoena and notice at the Sanders Associates, Inc.,  
Inc.; Headquarters, Spit Brook Road; Nashua, New  
Hampshire; Friday, November 21, 1975; commencing  
at nine-thirty in the forenoon.

PRESENT:

For Midway Manufacturing  
Company, Bally Manufacturing  
Corporation and Empire:

Donald L. Welsh, Esq., and  
A. Sidney Katz, Esq., 135 South  
LaSalle Street, Chicago,  
Illinois, was further examined  
and continued his testimony For Atari, Inc.:

Thomas O. Herbert, Esq.,  
(Interrogatories by: 160 Sansome Street, 15th Floor,  
San Francisco, California.

Q. Mr. Seligman, were any of the instructions to  
search for documents For Sanders Associate, Inc.,  
and Magnavox Company:

A. No.  
Q. Referring to paragraph 77 West Washington Street,  
Chicago, Illinois.

subpoena and notices of deposition, did you bring  
For Sanders Associates:

drawings, circuit diagrams, written descriptions,  
Louis Etlinger, Esq., and  
notes, memoranda and Richard I. Seligman, Esq.,  
Daniel Webster Highway, South,  
Nashua, New Hampshire.

development of the alleged inventions of the patent  
in 1975?



A. Yes, I believe so. For the Magnavox Company:

Q. Thomas A. Briody, 1700 Magnavox Way, Fort Wayne, Indiana.

A. Yes, I believe so. Are the notebooks or what do we have,

ALSO PRESENT:

Q. For Atari, Inc.: Mr. Nolan Bushnell.

A. Yes, I believe so. Nolan Bushnell, also known as "Nolan Bushnell."

Stenotype Reporter: Mr. Ronald J. Hayward.

before the witness of Ronald J. Hayward.

raise - - - before us and permit the

RICHARD I. SELIGMAN

witness to identify these laboratory notebooks and called as a witness, being duly sworn, was further examined and continued his testimony as follows:

we must raise the question of revealing to the

(Interrogatories by Mr. Welsh.) in Bushnell, the

1 Q. Mr. Seligman, were any of the instructions to search for documents reduced to writing?

A. No. There may be a dispute, a contention with

2 Q. Referring to paragraph 6 of the attachment to the subpoena and notices of deposition, did you bring drawings, circuit diagrams, written descriptions, notes, memoranda and other documents relating to the conception, reduction to practice testing and development of the alleged inventions of the patents in suit?

A. Yes, I believe so. I am not sure of what the documents are,

Q. What are those documents and things? I recognize

A. I believe we have the notebooks or what do we have, Jim? A number of laboratory notebooks. that we

Q. Would you describe those for the record, please?

A. The first one is a blue notebook labeled "ECM 373."

MR. ANDERSON: Mr. Welsh, before the witness continues, I think we have to raise - - - Before we continue and permit the witness to identify these laboratory notebooks and any dates involved in those notebooks, I feel that we must raise the question of revealing to the new party, Atari, or to Mr. Nolan Bushnell, the testimony regarding dates and work done in various periods of time because it is my understanding that that there may be a dispute, a contention with respect to the timing of work done by Mr. Bushnell who is present here in the room versus the timing of work done by the inventors at Sanders, and I have just discussed this with Mr. Herbert and Mr. Herbert has indicated that neither he nor Mr. Bushnell at the present time have any knowledge of the dates alleged by Sanders for the work done

and have no knowledge of what the documents are, even though, Mr. Katz and Mr. Welsh, I recognize that you have had access to these books and have copies of them and we have stated dates that we contend for invention. The fact is, Mr. Bushnell does not now know that, as I understand it, nor does Mr. Herbert. Until we know or have some system of handling what his contentions are with respect to his work, we feel that he must be sequestered from this deposition with respect to early work done by Sanders and I think that Mr. Herbert suggested that he and Mr. Bushnell leave the room and discuss this problem before we go ahead and I think that is an excellent idea.

testimony in jeopardy MR. WELSH: And I suggest that we go with them to discuss it.

Therefore, I think MR. HERBERT: Let me say we already have Magnavox's and Sanders' answers to interrogatories in the Chicago case prior to Atari being involved as a party. I read those answers to interrogatories and I don't remember today what your dates of invention are or anything, but I do have those answers to interrogatories in

my file. They have not, to my recollection, been forwarded to Atari. that if Mr. Bushnell does not know those dates now, MR. ANDERSON: Yes, and I did indicate that to you when we were talking off the record that we have stated our dates and (discussion off the record.) I think that doesn't alter the fact that Atari and Mr. Bushnell don't yet know them and we think it is in the interest of all the parties as I told you that there be independent statements of positions in this regard because certainly if Mr. Bushnell knew the dates that we are contending and did the work and then testified, especially if it is based on oral rather than documentary evidence as to dates to work prior, it will seriously put his testimony in jeopardy. I would have to raise that point and I think you would understand that. Therefore, I think it is in everyone's best interest if we could somehow resolve this now and each party take a position now in some way and I realize the problems it raises with you. I would propose that when we MR. HERBERT: Let me take a tend few minutes to talk with Mr. Bushnell and Mr. Welsh. will relate the dates: or, if you prefer

MR. ANDERSON: And I would admonish to you now that if Mr. Bushnell does not know those dates now, that he should not know those dates, please.

(Discussion off the record.)

MR. HERBERT: We have discussed the problem and have come to the agreement that it is certainly not necessary for Mr. Bushnell to have the dates of the Sanders inventions at this time. Consequently, we are willing to not disclose those dates as we know them or as it will be developed here to Mr. Bushnell at this time or up until the time that we have our own dates in some evidenciary form, either documentary or by their testimony and deposition. Mr. Bushnell's presence here, however, was, of course, not to learn those dates, but to be of assistance in the course of the questioning of the technical witnesses which are going to be here this week and next week. I would propose that when we get the transcript, I do intend to give Mr. Bushnell a copy of that transcript. However, I will delete the dates; or, if you prefer

to do that yourself, give me a copy with the dates deleted for transfer to Mr. Bushnell. When he receives it, it is at least strongly possible that he is going to see questioned areas that I did not see and perhaps that Mr. Welsh and Mr. Katz didn't see that we have missed from a technical point of view and it might be that we would have to come back to explore those areas a little better. Now, I am not looking forward to coming back and I am hoping that it doesn't happen, but I think it is at least a possibility that we have to be aware of. So if that is acceptable to you, we have one other minor condition and that is that you give me a ride to the airport this afternoon.

MR. ANDERSON: Well, to start with last things first, certainly we will be happy to give you a ride to the airport. And it is our desire to expedite this in every way possible to minimize the inconvenience to everyone involved, but to protect everyone's interests and rights in the situation and, as I suggested, I think it will take several weeks, I am sure, to develop a transcript, and if Atari and Mr. Bushnell are in

a position to set down in writing supported by documents in much the same way that a preliminary statement is prepared in an interference, what dates Atari will contend for Mr. Bushnell's work; once that is done, I think we could expedite the thing and we wouldn't have to explore the id be transcript.

MR. HERBERT: It is possible that that can be done before getting the transcript.

airport. MR. ANDERSON: Would that be acceptable to you, as far as timing is concerned?

has the car, I need a MR. HERBERT: Yes.

MR. ANDERSON: I suggest we proceed in that manner.

an expurgated copy of MR. ETLINGER: Before we proceed, I would like to ask the question, Did I understand correctly that the witness will give the testimony as to the dates and they will be taken out of the transcript?

fact, if I do not MR. HERBERT: The copy of the transcript that I give to Mr. Bushnell, yes.

MR. ETLINGER: But the dates will be disclosed?

I would like to do it MR.: ANDERSON: Well,  
Mr. Bushnell is ready to leave.: All right,  
that being the case, MR. HERBERT: He is leaving;  
I will be here.. to the car to get my suitcase  
to bring it back or MR.: ETLINGER: I beg your  
pardon, that wasn't mentioned that you would be  
here. possibility, we could skip over this, if there  
is anything else, for MR.: ANDERSON: That was a  
cryptic comment inherent in the ride to the development  
airport. don't know if that is true, I am just  
offering that as a possibility MR.: HERBERT: Mr. Bushnell  
has the car, I need a ride. LSH: If he is going to  
go, there is nothing MR.: ANDERSON: I would prefer  
to not go to the airport and confusion of providing  
an expurgated copy of the transcript; I would, fine.  
much prefer to pin it all down as quickly as a  
possible. ss. . . .

MR. BUSHNELL: We will try to  
(whereupon, a recess was taken.)  
get that stuff into testimony very shortly. In  
fact, if I am not horsing around here the first  
of next week, I can probably chase those other  
guys. . . . I wonder if you could begin the  
description of these MR.: ANDERSON: All right; then



I would like to do it that way. in the transcript?

A. I said this was a bit. MR. HERBERT: All right,  
that being the case, Mr. Bushnell will leave now.

Q. I will have to go to the car to get my suitcase  
A. to bring it back or transfer it.

Q. Is there any other? MR. ANDERSON: There is one  
other possibility, we could skip over this, if there

A. is anything else, Don, that you plan to do under  
the 30-B6 that doesn't involve dates and development

Q. work. I don't know if that is true, I am just  
offering that as a possibility.

A. On the inside of the MR. WELSH: If he is going to  
go, there is nothing here that would be of interest  
to him that would be left with this witness. Under

that William L. Harri MR. ANDERSON: All right; fine.

Q. Thank you, Mr. Bushnell. Then we will take a  
brief recess. And to, I believe at this time, personnel  
that worked in the Electronic Countermeasures

(Whereupon, a recess was taken.)  
group at Seneca, numbers were assigned to them

Q. (By Mr. Welsh) I think we stopped your examination  
at a point when you were describing the first  
notebook. I wonder if you could begin the  
description of these notebooks again so that the

- Q. description is all in one place in the transcript?
- A. I said this was a blue notebook identified as
- Q. ECM373. Is there any policy for keeping engineers' notebooks
- Q. That is by a label on the outside?
- A. That is a label on the outside.
- Q. Is there any other identifying material on the outside? Is there any policy in that regard?
- A. It says Sanders Associates, Inc., Electronic Countermeasures Division, Engineer's Notebook.
- Q. Could you look inside and see if there is any identifying information there?
- A. On the inside of the front cover it says ECM373,
- A. signature, which is crossed out, and the word
- Q. "error" written in or printed over it; and under that William L. Harrison.
- Q. What does the designation ECM373 mean?
- A. Notebooks given to, I believe at this time, personnel that worked in the Electronic Countermeasures group at Sanders, numbers were assigned to them for these notebooks. It doesn't have custody over
- Q. Where was that notebook obtained for production here? Is it a standard issue or something like that.
- A. I believe from one of the inventors. Is that correct?

11 Q. From Mr. Harrison?

18 A. I can't say for sure.

12 Q. Is there any policy for keeping engineers' notebooks  
A. in a particular place?

19 A. By the inventor?

13 Q. Well, what is done with notebooks after they are  
22 Q. filled up, is there any policy in that regard?

A. The inventors sometimes they keep them or the  
A. engineers or technicians, sometimes they keep the  
21 Q. notebooks, or sometimes they turn them in to the  
Patent Department.

14 Q. Are notebooks kept in the Patent Department?

22 A. No, they are usually filed away.

15 Q. Are they kept under the custody of the Patent  
Department? "Notebook" and it is Book No. 4274.

A. I don't know what you mean by custody. There is

16 Q. Well, they might be filed away some place other-  
than in the Patent Department and still be under  
under their custody.

A. The Patent Department doesn't have custody over  
the files where they would be put away. I believe  
it is a dead storage area or something like that.

17 Q. But are they retrievable by the Patent Department?

A. Yes. I can't say where we got it, whether it was  
Q. And do you know where this particular notebook  
came from? Department or that either Mr. Harrison  
A. I believe one of the inventors.  
Q. Which one? Aired in connection with your search  
A. I am not sure.  
Q. By one of the inventors, you mean either Mr. Baer,  
Q. Rusch or Mr. Harrison? true of the first notebook,  
A. I believe that is correct.  
Q. Would you go on with the identification of these  
Q. notebooks? same thing true of the other two notebooks  
A. The next notebook? front of you?  
Q. Yes. could say so. re. to the...  
A. The next one is labeled "Sanders Associates e?  
A. Engineering Notebook" and it is Book No. 4224.  
A. The name on it is William T. Tusch and there is  
a label on the front which says that it was issued  
on 10-28-66 and completed on 10-18-67. There are  
Q. also some various writings on that label. production  
Q. That is a label on the outside of the notebook?  
A. Yes, on the outside of the notebook.  
Q. Do you know where that notebook was obtained for  
A. production here? re. to the... Engineering

A. Again I can't say where we got it, whether it was in Mr. Rusch's hands when it was turned over to the Patent Department or that either Mr. Harrison or Mr. Baer had it.

Q. Was it obtained in connection with your search for documents?

A. Yes, it was.

Q. And is the same thing true of the first notebook, No. 373?

A. Yes.

Q. Is that same thing true of the other two notebooks that you have in front of you?

A. I would say so.

Q. Would you go ahead and identify them, please?

A. The next one is Sanders Associates Engineering Notebook No. 4958. The name on the label is again William T. Rusch and it shows that it was issued on 10-18-67 and completed on 11-29-67.

Q. Do you know where that was obtained for production here?

A. Where I don't know, no.

Q. Would you identify the next notebook?

A. The next one is Sanders Associates Engineering

Notebook 5021, also the name on the front label is William T. Rusch and it shows that it was issued 11-29-67 and completed 3-1-68.

A. MR. KATZ: Excuse me, could

Q. I see the October 18, '67, notebook?

Q. Did you bring or produce or are you producing any documents or things relating to - other documents or things relating to the conception, reduction

A. to practice, testing and development of the

Q. alleged patents in suit?

A. Yes. I recall.

Q. What are those, please?

A. I have a file here of miscellaneous papers in a manilla folder. papers, there is lots of writing

Q. Is there any identification on that folder?

A. On the outside folder it says T. V. game data in chronological order, 1 September, '67, through 8-21-69.

Q. Was that file obtained in your search for those documents in response to the request?

A. I assume it was.

Q. Do you know where that was found in the search?

A. Looking in the file, I recognize at least some,

of the papers as coming from Mr. Baer.

Q. You do not know, though, whether it did come from him or not? design. I cannot read what is in

A. I can't say for certain. That it says "Odyssey"

Q. And what is the next - before you get to that, do you know who assembled the papers in that file that you just identified marked T.V. game data in chronological order?

A. No, I don't.

Q. Did you have anything to do in assembling them?

A. I can't recall. Paragraph 6 of the attachment?

Q. Would you go ahead, then, with the next thing?

A. The next one is a manilla folder containing a number of loose papers, there is lots of writing on the outside of this folder. It says Magnavox license support data, signature, which reads as R. H. Baer. It further goes on to say T. V. G. data, masters prepared for Magnavox and issued 3-24 and 25-1971. Designs by William Harrison 1-23-40, drawn by Art Fornier 1-23-40. It further goes on to state this data describes the T.V. game "box" gun attachment and golf <sup>P</sup>utting attachment which was demonstrated to G. E., Sylvania, RCA,

mistranscribed <sup>RS</sup> 2/23/26

?  
~~Sen~~mit, Warwick and Magnavox during 1969 and 1970

RIS  
 2/23/76

A. and delivered to Magnavox in 3-71 for use with

Q. preliminary design. I cannot read what is in

the parentheses, but after that it says "odyssey"

A. And then there is another abbreviation of a

Q. word which I can't read. at the top is

40 Q. And all of that information was written on the outside cover of that folder?

A. That is correct.

41 A. Q. Did you bring any other documents falling in this same category of paragraph 6 of the attachment?

45 Q. Would you identify of MR. ANDERSON: Again I might point out for the record that this is a rather rough classification by paragraph. Some of them might fit into other paragraphs or some of the things we have produced might be considered as falling within the paragraph also.

MR. WELSH: Yes, I understand.

THE WITNESS: This one is another manilla folder of loose papers, on the tab of the folder is listed NFGAA-TVG.

42 Q. Is there any other identifying information on

paper

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the folder? handwritten notes.

A. No, there any identifying data on the sheet of

Q. Could you look at, say, the first paper on the written inside and see if there is some identifying data

A. there? the outside. Inside there is typed in

A. The first paper in this folder at the top is a written color TV notes, again with the date 5-2-67,

Q. W. Harrison.; does that designation 5.3.2.3 have?

Q. What does NFGAA mean? MR. ANDERSON: It is

A. I can only assume it is some sort of task code number.

Q. Would you identify other documents which you produced as relating to paragraph 6? Before that, was this also; that is, the folder you just identified,

Q. NFGAA-TVG, also found in your search for documents

A. in response to the request?

A. Yes, the handwritten notes contain any identification?

Q. Do you know where the folder came from? top one,

A. No, it is entitled, apparently, Transcript of

Q. Would you go ahead with the next document? 1967 for

A. The next document is some principally handwritten notes stapled together and a - the second sheet of paper clipped to that with a paper clip and on top

Q. of the handwritten notes. Is that right?

Q. Is there any identifying data on the sheet of paper that is clipped to the top of the handwritten notes?

A. I'd guess, I'd say it is Ralph Baer.

A. Not on the outside. Inside there is typed in for apparently on top of it 5.4.2.3, Sanders Data Systems.

Q. What meaning does that designation 5.3.2.3 have?

MR. ANDERSON: It is not?

A. 5.4.2.3.

Q. Did your search include MR. WELSH: All right; I am sorry.

A. There is a recording THE WITNESS: I can't say for sure, probably a paragraph designation. the

Q. May I see it?

A. Yes.

THE WITNESS: I have a

Q. Do the handwritten notes contain any identification?

A. The first of the handwritten notes, the top one, says or is entitled, apparently, Transcript of Audio Cassette Recording (Side B) made in 1967 for Demo to R. C. Sanders, Jr., and other senior management personnel.

Q. What other documents or things did you bring

Q. Do you know whose handwriting that is? Practice,

A. I can't say for sure. ~~at~~ of the alleged inventions

Q. Do you recognize the handwriting?

A. If I had to guess, I'd say it is Ralph Baer. the

Q. Do you know where that document was obtained for production? *uniques*, W. Rasch, 1963 (FY1969).

A. No. I see that a minute? . . .

Q. That document does refer to a recording, does it

Q. not? other documents or things did you bring?

A. Yes. King to those categories? ...

Q. Did your search include the search for that of recording?

A. There is a recording somewhere I have seen.

A. Yes, they do. Q. MR. ANDERSON: I hand the

0. witness at cassette. there is identifying information

with respect to these THE WITNESS: I have all us  
recording that we found in the search.

Q. Did you play that recording? A No. 5 on it.

A. No, I'd you describe just generally what each object

Q. Does it have any identifying - does the cassette

have any identifying information on it? it is 18 by 12,

A. It says TVG demo, 11967. a printed circuit board

0. What other documents or things did you bring in as

relating to the conception, reduction to practice,  
testing and development of the alleged inventions  
of the patents in suit? hockey.

A. I have another brown folder having a label on the  
front cover thereof which says NKM(TVG), special  
display techniques, W. Rusch, 1968 (FY1969).

Q. May I see that a minute? is, containing a number of

A. Yes. electrical components inside, a switch and a

Q. What other documents or things did you bring to  
relating to those categories? covered by brown

A. Things, I guess the models at the other end of

Q. the table. larger chassis have any identifying

Q. Did those have any identifying information?

A. Yes, they do. No. 6.

Q. To the extent that there is identifying information

A. with respect to these models, would you tell us

Q. what it is? proceed with the other objects?

A. This one I am holding now says No. 5 on it.

Q. Could you describe just generally what each object  
is? a handle, a pivotable handle, having some

A. This is a 15 by 12 or something like that; 18 by 12,  
metal chassis containing a printed circuit board  
with a number of electrical components thereon as ch

well as a number of batteries.

Q. Is there any legend visible on that metal?

A. Yes, it says round spot hockey.

Q. Would you proceed with the other models?

A. There is a model that I am holding now; it is a

A. chassis, that is 7 by 10 or 6 by 10, I am not

Q. very good at measurements, containing a number of

A. electrical components inside, a switch and a

Q. connector on the outside and cables connecting to

A. two smaller chassis which are covered by brown

Q. contact-type paper. These various models or objects

Q. Does the larger chassis have any identifying

A. information on it? We were found in a laboratory

A. Yes, it says No. 6.

Q. On a piece of masking tape affixed to it?

A. Yes. I believe Mr. Baer was responsible for collecting

Q. Would you proceed with the other objects?

A. This is a much bigger chassis on the outside of

A. which is a number of switches and knobs and a

Q. wooden handle, a pivotable handle, having some

A. cables attached to the chassis. I believe - having a

Q. Is there any other identifying information?

A. This is identified by a piece of masking tape which

A. says No. 2 on it. is a number of resistors and

Q. Are there also labels for various components affixed to the top of the chassis? The next one is

A. Yes, a box having a piece of masking tape which

Q. Do you know who put the labels on them? from TV3

A. No. Inside there is a number of electrical

Q. Or assigned the numbers to these?

A. No, the brown TV3 box present among these other

Q. Do you know who would know? identified yet?

A. I would guess Ralph Baer, a brown box which I

Q. Do you know where these various models or objects were found when they were sought?

A. I think some of them were found in a laboratory used by Mr. Baer, on the box, on the wire leading

Q. Do you know who collected them? identified previously?

A. I believe Mr. Baer was responsible for collecting the models, the box which I just described

Q. Did you assist him in that collection?

A. I don't think so, front of the box with the No. 7

Q. Would you proceed to identify the other objects?

A. This one is a flat metal plate bearing - having a

A. piece of masking tape on it with the No. 1, from

Q. And are there parts affixed to the plate? identification

- A. On one side there is a number of resistors and capacitors and on the other side a number of tube sockets and potentiometers. The next one is a metal box having a piece of masking tape which is labeled D-DT accessory (plugs into brown TVG box). Inside there is a number of electrical components and a battery.
- Q. Is the brown TVG box present among these other objects that you haven't identified yet?
- A. I can't be sure. There is a brown box which I haven't identified yet which has a piece of masking tape with the No. 7 written on it.
- Q. Does it have any connector or socket suitable for receiving the plug on the box, on the wire leading from the box which you just described previously?
- A. Yes, there is a socket to mate with a connector on a wire from the box which I just described previously.
- Q. Referring to the front of the box with the No. 7 masking tape label, is there any identifying information there?
- A. There are some strips containing the numbers from 1 to 16. Another strip containing the designation

light pen and a further strip containing the designation TVG.

Q. Are there any parts connected to the box No. 7?

A. Attached to this box are two smaller boxes.

Q. Could you describe them briefly?

A. Each of these boxes have knobs on the top and one knob each on the side.

Q. Are there any legends bearing or having identifying information on those smaller boxes?

A. One of them bears a legend left-hand player, the other bears a legend right-hand player, and each of the knobs bear legends HOR, English, and there are pushbutton switches bearing the legend serve,

having paper tabs attached. MR. WELSH: Off the record.

Q. What do the tabs say? Do they contain any information? (Discussion off the record.)

A. One of the tabs says "serve". MR. ANDERSON: These two

cards that Mr. Williams just handed the witness, marked with a pencil note 12 and 13 in circles were in the box also.

MR. WELSH: Now, when you say the box -

MR. ANDERSON: The cardboard



A. box which contained the Box No. 7 with the two smaller boxes connected to it by cable., I would

Q. What other objects are here that you could identify?

A. Well, in this same box there is some colored papers bearing drawings.

Q. How many colored papers are there?

A. I count five.

Q. Could you tell how many of each color there are?

A. Two yellow, a green, an orange and a black.

Q. Are there any other objects in the cardboard box containing the TVG box No. 7?

A. There are some plastic sheets, two plastic sheets, having paper tabs attached to the sheets.

Q. What do the tabs say? Do they contain any information?

A. One of them says move to blue unless both on blue.

Q. And does the other plastic sheet contain a tab; and, if so, does it contain some identifying information?

A. It says, among other things, move to red unless both on red.

Q. Would you continue to identify the other objects which are here?

A. A metal, a small metal plate with a piece of ~~plastic~~ masking tape on it that says CT-P/on box, I would guess No. 7. MR. WELSH: Mr. Williams,

Q. Would you go ahead with the other objects?

A. A piece of twin lead bound by a piece of masking tape. they came from?

Q. Is there any identifying information on the tape?

A. No, I ~~first~~ saw them.

Q. Would you go ahead with the other objects?

A. The next is a toy rifle with a cable attached brought to it.

Q. Is there any identifying label or information on it?

A. It bears - the rifle bears the word "Marx." Sanders

Q. Would you go ahead with respect to the other objects?

MR. WELSH: Did you see him bring them?

MR. ANDERSON: That is all.

MR. WELSH: I don't know that this was in the cardboard box, it was laying of on it. one time.

MR. ANDERSON: I removed it from the box, but Mr. Williams points out the box is irrelevant. The various things may have

been shifted from box to box in moving them upstairs and downstairs.

MR. WELSH: To you know whether any of the models came before the witness goes on with the other objects, he was not sure where they came from, do you know where they came from?

MR. WILLIAMS: I know how I first saw them.

MR. WELSH: How was that?

MR. WILLIAMS: Mr. Baer brought them.

MR. ANDERSON: We don't mind cooperating and I don't mind you asking Mr. Williams where?

MR. WILLIAMS: To the Sanders Patent Department.

MR. WELSH: Did you see him bring them?

MR. WILLIAMS: I saw him bring some models; I am not sure that he brought all of them at one time.

MR. WELSH: But at least some of these that are here you saw him bring to the Patent Department?

or also connected to MR. WILLIAMS: Yes.

A. Yes. MR. WELSH: Do you know whether

any of the models came through any other person

A. than Mr. Baer? Boards containing - having poten-

tialometers attached to MR. WILLIAMS: I don't

know. Do they bear any identifying labels?

A. One of the boards has MR. WELSH: Would Mr. Baer it

know? say V1, H2 left and V2.

Q. And how about the other MR. WILLIAMS: You will have

A. to ask him. The boards says HL and HR. Another one

is labeled VR, H1 right MR. ANDERSON: We don't mind

Q. cooperating and I don't mind you asking Jim Williams

A. that question, but I think when you get to that

point, you might as well ask the witness.

Q. Well, go ahead with the identification of the

A. other objects, please? a hole, a large hole drilled

A. We have here another chassis which has a sheet

metal piece attached to it and it bears designation

Q. No. 4 on a piece of masking tape. Just read

Q. Are there any wires or cables connected to that

A. chassis? It was written on with crayon or some other like

A. Yes, there are.

Q. And are there other objects connected through

A. or also connected to those cables?

A. Yes. It has a piece of tape on it which

Q. What are those?

A. There are four boards containing - having potentiometers attached thereto.

Q. Do they bear any identifying labels?

A. One of the boards has pieces of masking tape on it which say V1, H2 left and V2.

Q. And how about the others?

A. Another of the boards says HL and HR. Another one is labeled VR, H1 right and V1.

Q. I believe you said there were four?

A. Did I count them wrong? I guess I only see three now.

Q. Would you go ahead with the other objects?

A. This is a gray box with a hole, a large hole drilled in it, cut in it, and the only identification is inside the box and it says top P2WTRS.

Q. And how does that information you just read appear?

A. What is the form?

A. It is written on with crayon or some other like substance.

Q. Would you go ahead, please?

A. The next one is a box very much like the last

Q. mentioned box. It has a piece of tape on it which

A. says top and inside there are some markings which

Q. say top. Also it says P-1. Is that L. Itlinger?

A. Is there anything contained in each of these boxes?

A. Each of them apparently contains two potentiometers

A. which are ganged together in some fashion and

Q. connected to a rod. Is that?

Q. Are there also wires leading from the exterior 01K5246

A. of those boxes? exhibits.

A. Yes. You know what the designation NHO-1-601 means?

Q. Would you go ahead and continue your identification

A. of the other objects? As to this building, 601 refers

A. The next object is another toy rifle having a

Q. cable attached and having a piece of paper taped

A. to the rifle.

Q. Does the paper contain any information?

A. Yes. Headquarters.

Q. What is that? Is that the final? No. 52460 means?

A. It says first TV game rifle built 2-26 by

Q. W. Harrison. - goes with game box No. 2. on the

Q. Will you proceed with the next object, please?

A. I have another gun which has two sheets of paper:

attached to it. or light gun - used for demos to

Q. Is there any identifying information on those sheets of paper? or objects?

A. One of them says interoffice memo to L. Etlinger/ R. Seligman from R. H. Baer. on it with the

Q. Does it bear a date? The chassis has a cable

A. 7-11-75. to it.

Q. Any further information on that? is?

A. Well, it says blue bag to L. Etlinger, NHQ-1-601X52460, for closed room exhibits.

Q. Do you know what the designation NHQ-1-601 means?

A. NHQ refers to the facility that we are in, the building. NHQ-1 refers to this building. 601 refers to a room on the 6th floor. there?

Q. That is the Patent Department?

A. Yes. the envelope have any identifying information

Q. What do the letters NHQ stand for?

A. Nashua Headquarters. low that it says 1966, '67 and

Q. Do you know what the final No. 52460 means?

A. Telephone extension. R. H. Baer, 1-2336.

Q. Is there any other information contained on the

A. other sheet attached to that gun? tent or crew

A. It says 1967-TV game combination target rifle and

(odd/even) decoder light gun - used for demos to teleprompter with game unit No. 3.

Q. Are there any more objects? contained in that

A. No. I am sorry, there is. I have another chassis

having a piece of masking tape on it with the No. 3 written on there. The chassis has a cable attached to it. overlays, I guess, small ones.

Q. Are there also knobs on the chassis?

A. There are a number of knobs on the chassis.

Q. Are there any other objects? on the outside

A. There is a package containing some large papers,

some plastic sheets with miscellaneous things drawn

on the sheets. and describe the other items

Q. How many plastic sheets are there?

A. I count thirteen. of paper, a number of large sheets

Q. Does the envelope have any identifying information on its exterior?

A. It says TVG. And below that it says 1966, '67 and '68 (overlays used in). It says to William Harrison

1-23-40, 1-1-6, from R. H. Baer, 1-2300.

Q. What does the designation 1-23-40 mean?

A. I assume it is a particular department or group within the company.



Q. And what does 1-2300 mean? top refer to one or more

A. I assume the same thing. lowing?

Q. Were there any other items contained in that envelope besides the plastic sheets? y 2, both

A. Yes, there is a little envelope which has some 3 4. smaller plastic overlays or some more plastic layers something, plastic overlays, I guess, small ones.

Q. How many of those are there? 5. The next one

A. Five. overlay No. 7.

Q. What does the 1-1-6 designation on the outside of the large envelope mean? lay on overlay 1, 3, 4.

A. I don't know. identified as TVG-8 says overlay

Q. Would you go ahead and describe the other items that were in the large envelope?

A. Some large sheets of paper, a number of large sheets of paper with markings on it. There is writings on each sheet. which says penalties, another sheet

Q. Referring to the top of each sheet, is there some identifying information on those?

A. The first sheet says TVG-1, the second TVG-2, the third TVG-3, the fourth TVG-4, the fifth TVG-5, the sixth TVG-6, the seventh TVG-7, and the eighth TVG-8.

- Q. Do those sheets also at the top refer to one or more overlays with numbers following? large envelope?
- A. The top sheet says overlay 1 and overlays 3, 4.
- Q. The next one says overlay 1 or overlay 2, both of which are crossed out and below that 1, 3 and 4. The third one says overlay 3. The fourth one says use overlay No. 6 first, O.V. 5 is harder. The next sheet says overlays 5, 6. The next one overlay No. 7. MR. ANDERSON: I would like
- Q. The last one that said overlay No. 7 was what?
- A. TVG-6. TVG-7 says no overlay or overlay 1, 3, 4. And the sheet identified as TVG-8 says overlay 1, 2 and I can't tell, I don't know what it is, the next number. one of these patent applications
- Q. What other items were in the large envelope? I
- A. A light brown piece of paper having two cutouts and one chart which says penalties, another chart which says pick and score. ELSON: I understand.
- Q. Would you go on with the next item? All right;
- A. The next one is a blue sheet which has a drawing on it of some flowers and a cutout. the record.
- Q. The next object?
- (Discussion of the record.)
- A. The next one is a yellow sheet which has a drawing

Q. of a house and a fireman on it and some cutouts.

Q. Are there any more items in the large envelope?

A. No. the subpoena and the notices referring to

Q. Are there any other items which have been produced in response to the category 6 relating to conception, reduction to practice, testing and development of the alleged inventions of the said patents?

A. I believe that is it. some documents specifically.

I believe the notes. MR. ANDERSON: I would like to mention again that we are not saying that other documents and things produced under other sections would not come within this category.

One that comes to mind is that one might take the position that some of these patent applications are in the category of reduction to practice. I

Q. wouldn't want someone to later claim that we didn't

A. put it in the category and therefore it is excluded.

Q. The next question. MR. WELCH: I understand.

the cross-examination. MR. ANDERSON: All right; fine.

and any other use. MR. WELSH: Off the record.

there any other documents, Mr. Seligman, responsive (Discussion off the record.)

to this category that have not already been produced?

Q. (By Mr. Welsh) The next category is stated in paragraph 7 of the subpoena and of the attachment to the subpoena and the notices referring to records mentioned by the plaintiffs in their response to Interrogatory 11 of defendant's CID. This relates to results of Magnavox's or Sanders' examination or operation of machines of CID. Now, there were some documents specifically, I believe the notebook of Mr. Baer which includes reports regarding the examination. In respect to these documents. MR. ANDERSON: As far as I know, you have everything coming within your category 7 already produced in response to other categories. You can ask the witness, but that is my understanding from our search. Right, and,

Q. Is that correct, Mr. Seligman? one of the hearings

A. To the best of my knowledge, that is true.

Q. The next category is that of paragraph 8 regarding the press release relating to the filing of this action issued by Magnavox, and notes, correspondence and any other documents relating thereto. Are there any other documents, Mr. Seligman, responsive to this category that have not already been produced?

A. I don't believe so.

Q. And the next category relating to communication -- paragraph 9 of the attachment -- to any of the affidavits named persons relating to the action or, the is just patents. The persons named being Mr. Dimitri

Allegretti -- communications with Mr. Richard C.

Martin at the address MR. ANDERSON: You might as well take them one at a time. As far as I know, we have identified -- taking them one at a

time? MR. WELSH: Yes, in respect to those communications, your responses indicated that there were two letters which were identified in the responses and that you would not produce them, claiming attorney-client privilege. vox's

files and not Sanders MR. ANDERSON: Right, and,

Q. as you know, he did appear at one of the hearings in the matter on behalf of the plaintiff, man, involving or relating MR. WELSH: Has he entered his appearance yet? parties named in the sections in

subparagraphs 2 through MR. ANDERSON: I don't know

A. whether he has or not. I didn't check it out.

Perhaps he was waiting for me, I don't know.

Q. What is your file #? MR. HERBERT: Who was he

representing? the Magnavox correspondence file.

MR. ANDERSON: The plaintiffs.

MR. HERBERT: Both plaintiffs?

MR. ANDERSON: Yes, he is just co-counsel with us, that is all.

Q. Subparagraph B, communications with Mr. Richard C.

Martin at the address in England. All of these

next sections, B through H, are addressees in

England. You suggested taking them one at a

time? I go to the file which is in front of you which

I might state are the MR. ANDERSON; I think you

can group B through H and I can state with

respect to all of those, any documents which

exist, to my knowledge, would be in Magnavox's

files and not Sanders' files. Magnavox maintained

Q. That was to be my question. Do you know of any

documents in the Sanders' files, Mr. Seligman,

involving or relating to communications between

Sanders and the parties named in the sections in

subparagraphs B through H of paragraph 9?

A. I can't recall any offhand, unless in our files,

637 there might have been. Not, Mr. Williams,

Q. What is your file 637? number file 637, there is a

A. I handed over the Magnavox correspondence file.

MR. ANDERSON: That is on the table in front of you, Mr. Welsh.

THE WITNESS: There may be copies of some correspondence to one of these parties, I am not sure. any category?

Q. Mr. Anderson just referred to a folder, I believe you were referring to this folder, Mr. Anderson.

MR. ANDERSON: Well, I was referring to the pile which is in front of you which I might state are the documents which we told you yesterday we would try to produce by this morning and we did just produce them just prior to beginning this session this morning. Those documents are the correspondence files marked Magnavox maintained by Sanders, as I understand it. Many of them are confidential. They do have the file No. 637 on at least several of the folders that I see in front of me. It says Magnavox Flexprint Lucas.

What does Magnavox? MR. WELSH: The particular folder that was lying on top of those I believe was produced before, was it not, Mr. Williams, although it now bears a number file 637, there is a

file 687 designation which is crossed out? s.

Q. With respect to what MR. WILLIAMS: You are correct, that file was produced before.

A. Flexible printed circuit MR. WELSH: Could we have this file identified? I don't think it has been produced in response to any category?

Q. What does Lucas mean MR. ANDERSON: We don't know

A. that it fits in any category. We have licensing arrangements with. THE WITNESS: It is a file of

Q. patents that I don't see any relationship to any of the categories or anything to be produced today.

Q. Do the patents bear any handwritten notations?

A. Yes, they all bear the notation file 687. and I

Q. And does that notation also appear on the front of the file? Is there no other explanation for having them

A. Crossed out. They are.

Q. Is there some other notation on the front that is crossed out?

A. Yes, it says Magnavox Flexprint Lucas. their face,

Q. What does Magnavox Flexprint mean?

A. I have no idea. Magnavox is one of the plaintiffs, Flexprint is, I believe, a trademark of Sanders Associates. The relationship between the two on



the file cover, I do not know what it means.

Q. With respect to what goods or services is it in a trade mark? believe.

A. Flexible printed circuits. specifically for such

Q. Is that a product of Sanders?

A. Yes. I don't look through that file.

Q. What does Lucas mean? paragraph 10 of the attachment,

A. To me, it means a company which we have licensing arrangements with, of the defendant's CIP, which

Q. Do those patents relate to your Flexprint product? or agents of plaintiff MR. ANDERSON: I might state for the record that we produced this folder just

because it was with the Magnavox folders and I

A. believe all the patents are Magnavox patents.

We can offer no other explanation for having them here or what they are, and not Sanders documents.

I would doubt that we MR. KATZ: Are they Magnavox

Q. patents? act to documents of Sanders, do you have

or have you produced MR. ANDERSON: On their face, they are owned by Magnavox.

Q. Going back to category 9 and subparagraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VV, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YY, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ.

Q. B to H of that, I believe you stated that communications with named parties, there might be

some in the Magnavox correspondence files? category

A. If we have such communications, they will be in that file, I believe. tent 3,659,284." But anything

Q. You did not check the file specifically for such communication? the files of Sanders has been

A. I didn't look through that file.

Q. The next category, paragraph 10 of the attachment, refers to documents identified in plaintiff's response to interrogatory 15 of the defendant's CID, which

A. I believe related to documents prepared by employees

Q. or agents of plaintiffs concerning CID games alleged to infringe. Do you have such documents or have they been produced already? in respective productions

A. I see a listing in response to what I assume is by interrogatories, a number of documents, they look like Magnavox documents and not Sanders documents.

A. I would doubt that we have any of those.

Q. With respect to documents of Sanders, do you have or have you produced documents responding to this category? interrogatory 31 of Defendant's CID.

I believe such inter. MR. ANDERSON: Well, Mr. Welsh, again in a very broad sense one might place documents that have been produced relating to it.

Chicago Dynamic Industries, Inc., in this category without special regard to the language "which is alleged to infringe patent 3,659,284." But anything relating to Chicago Dynamic Industries, Inc., which we found among the files of Sanders has been the produced. inventions of said patents by Sanders to

Q. So far as you know, have all of the documents as relating to Chicago Dynamic Industries been in produced? very been produced?

A. To the best of my knowlege, yes.

Q. The next category is all drawings and/or circuit diagrams of the alleged inventions of said patents made up to and including their respective reductions to practice. So far as you know, have you already produced all of the Sanders documents which would fall in this category? of Midway's request for

A. I believe we have. an objection with respect to

Q. Paragraph 12 of the attachment refers to all proposed documents offered by plaintiffs in plaintiff's that response to interrogatory 32 of defendant's CDI.

I believe such interrogatory related or called for documents relating to the conception, development

A. and testing of devices of the 284 patent in suit.

So far as you know, have all such documents of Sanders been produced?

A. I believe so.

Q. Paragraph 13 of the attachment calls for documents or things relating to the first disclosure of the alleged inventions of said patents by Sanders to a person not associated with Sanders. So far as you know, have all documents or things falling in this category been produced?

A. I believe so.

Q. The next category set forth in paragraph 14 is the disclosure and/or demonstration of the alleged inventions of said patents to the following companies and any agreements or communications or memoranda relating thereto. The response to that corresponding paragraph of Midway's request for documents contained an objection with respect to the documents containing royalty rates or proposed royalty rates, and under the protective order that objection apparently has been lifted. So far as you know, have all of the documents of Sanders falling in category 14 now been produced?

A. I believe so.

As I understood it yesterday, the confidential documents were actually produced. Well, to the best of my knowledge, MR. ANDERSON: Yes, to the best of our knowledge, you have them all at this point in time. be in Magnavox's files.

Q. The next category 15 calls for the first documents relating to the first solicitation and the initial order for the sale of apparatus by think plaintiffs embodying the alleged inventions of said patents. Now, the response to the request states, "The invoices and other relevant documents relating to delivery by Magnavox to its customers of such apparatus - - -"

MR. ANDERSON: I think you have not yet taken the opportunity for seeing and will be made. I think you skipped a number. you want to come over and see

MR. WELSH: I am sorry. them.

Q. The response to that paragraph was, "Plaintiffs will permit inspection and copying of the documents requested in this paragraph." Are there any Sanders documents falling within that category? I believe that there are or at least may

A. To the best of my knowledge, there are none.

MR. WELSH: Mr. Anderson, before going to the next category,

where will those documents be? to or what the

title of that file. MR. ANDERSON: Well, to the

best of my knowledge, there are none in Sanders'

files either that I am aware of. If there are

any, they would be in Magnavox's files.

MR. WELSH: And where are of

those located? Are there any Sanders documents

falling in that category? MR. ANDERSON: Well, I think

you have probably seen them already. To the

best of our present knowledge, they are in Chicago.

You have seen some of them, there are some of them

that have been available to you that you have not

yet seen. That you have not yet taken the invoices

opportunity for seeing and will be made available

at any time that you want to come over and see

them. maintained at the Magnavox manufacturing facility

in Greenville, Tennessee. MR. KATZ: I wasn't aware

that there was anything being offered that we

haven't seen. invoices and related documents in

Greenville and select. MR. ANDERSON: I understand

from Mr. Williams that there are or at least may

be some you have not seen. as it seeks to have

Before going to the next category, Mr. Seligman,

do you know what file 687 related to or what the title of that file was?

A. No. MR. ANDERSON: I think in

Q. Paragraph 16 of the attachment states, "The initial delivery on any order for the sale of apparatus by plaintiffs embodying the alleged inventions of said patents." Are there any Sanders documents falling in that category? seen?

A. To the best of my knowledge, there are none. one category or another. MR. WELSH: Mr. Anderson, in plaintiff's response to that paragraph of the request for documents which are erroneously took out of order a moment ago states that, "The invoices and other relevant documents relating to delivery by Magnavox to its customers of such apparatus are maintained at the Magnavox manufacturing facility in Greenville, Tennessee, and are filed according to customers. Defendant Midway is invited to examine those invoices and related documents in Greenville and select the ones relating to the initial of the referenced apparatus. Plaintiffs object to this request insofar as it seeks to have the requested documents produced for inspection and

copying at Fort Wayne, Indiana." Do you persist in this objection?

MR. ANDERSON: I think in fact we have since answering your request obtained copies of the initial documents and they have been produced for you in Chicago.

MR. WELSH: Are they among the group that we have not seen?

MR. WILLIAMS: Either in one category or another. They were either produced in August, I believe it was, or are available there now.

Q. The next category 17 calls for, "The documents identified in plaintiff's response to documents, Interrogatory 62 of defendant CID." I believe those documents relate to the validity of the Welsh, 284 patent in suit." Plaintiff's response -- first of all, Mr. Seligman, so far as you know, have all Sanders documents relating to that category been produced?

MR. WELSH: Well, I am talking about the documents.

MR. ANDERSON: Well, Mr. Welsh, they have either been produced or identified in our response to production of



documents filed with the court on August 11, 1975.

Q. Category 18 called for prior art cited during the prosecution and examination of said patents and of all corresponding foreign patents and patent applications. There was an objection to producing some of those because of the possibility of notations on them, but an offer was made to make an attempt to provide them in Midway was not able to obtain copies after a reasonable effort. There was a further objection to some of these documents in this category and a listing in the response of specific documents which would not be produced, a list of some thirteen. Do you persist in a refusal to produce those documents, Mr. Anderson?

MR. ANDERSON: Well, Mr. Welsh, paragraph 18 only requests prior art documents, we stand on our offer to provide you with any that you can't find anywhere else.

MR. WELSH: Well, I am talking about the documents that are listed in your response and identified with the statement that they would not be produced. I am just asking if

you persist in the refusal with respect to those of thirteen identified documents? nally calculated to lead to the discovery MR. ANDERSON: Yes, we have identified those as documents not subject to production because they are attorney-client privileged documents or work product documents properly excluded under Rule 30. And as Mr. Williams points out, some of these are not Sanders documents, of course, they would not be produced today, in any event. ough H are foreign applications corresponding to that MR. WELSH: "We understand, that. The next category in paragraph 19, the subparagraph A, calls for the patents and applications identified under A through U in plaintiff's response to interrogatory 81 of defendant CID. The plaintiff's interrogatory 81 asks for identification of patents and applications, U.S. and foreign, on improvements of the subject matter of the patents in suit and there were identified in that response certain applications, some twenty-one applications on improvements. Now, the response to the corresponding paragraph of our request earlier was, "Plaintiffs object to this paragraph as requesting

documents which are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

However, in order to advance the resolution of this action, plaintiffs will produce the patent and patent applications identified as items A and O through U and plaintiff's response to Interrogatory 81 of defendant CID. It is noted that the patent applications there identified as Items B through N are foreign applications

corresponding to that of Item A." First of all, have there been produced here, Mr. Seligman, the patent or patent applications which have been offered to be produced, specifically those identified as Items A and O through U in plaintiff's response to Interrogatory 81?

MR. ANDERSON: Mr. Welsh, it is my understanding that Items O through U are not Sanders items.

MR. WELSH: You can't tell from the description.

MR. ANDERSON: That may be.

MR. WELSH: That is why I am

asking the question.

MR. ANDERSON: That is my understanding.

MR. WILLIAMS: And O through U have previously been produced for you in Chicago.

Q. And how about Item A which is U. S. application Serial No. 356000 filed May 29, 1973, for "pre-programmed television gaming system" by Ralph H. Baer?

A. I don't know whether we brought that one with us. Did I turn that over to you?

MR. ANDERSON: Mr. Welsh, it is our understanding with respect to Item A ss, that it is a pending patent application on what certainly could be considered an improvement it and we therefore identified it. We will let you see it. It is not in the room, I don't believe. We will permit you to see it under the protective order because it is pending. I also might say I think it is irrelevant.

MR. HERBERT: Are all the foreign applications pending?

Did you produce the MR. ANDERSON: We have only produced copies of foreign cases and they are to foreign cases that grew out of patents in suit.

A. I think some of them are pending and some are not.

objection to that MR. HERBERT: No, I am referring to Items B through N referred to here which are apparently the corresponding patent applications or corresponding to Item A and I am asking, depending on how long they have been filed, maybe some of the foreign ones have already been issued?

MR. ANDERSON: I don't know the answer to that. foreign applications B through

N. MR. SELIGMAN: I would guess, in fact I am pretty sure that at least one of the foreign applications is issued. I think it has been.

language translation MR. ANDERSON: We will find out. I was just advised that the U. S. case was pending and, therefore, it seems appropriate to have it under the protective order. If the foreign patent was issued, certainly you would have the disclosure which is all you want.

Q. Did you produce the foreign applications identified as Items B through N of plaintiff's responses to defendant CID Interrogatory No. 81? 11. I believe

A. I don't believe we did. well as the attachment to the subpoena and MR. WELSH: There was an objection to that production, do you persist in that objection, Mr. Anderson? MR. ANDERSON: Yes, and our objection to paragraph MR. ANDERSON: Yes, we, I persist in the objection, but, as I say, I think we will show you the documents under the protective order if you want to see that application. constituting, referring MR. WELSH: Where are those applications? The foreign applications B through N. including specifically in subparagraph B of category 19, all other MR. ANDERSON: I would presume that the specifications in all of them, A through N, would be substantially the same, but for the foreign language translation problems. I think we would produce them all under the protective order if you want to see them and if your Japanese is good enough to compare them. applications identified as Items A and C through MR. WELSH: Well, by all, you mean just the specifications? ant's CID."

MR. ANDERSON: A through N, the patents and patent applications, yes.

MR. WELSH: Well, I believe the document request as well as the attachment to the subpoena and the notices goes beyond just the applications.

MR. ANDERSON: Yes, and our objection to paragraph 19 contemplates that, I think.

MR. WELSH: Well, what are you going to produce, all of the documents identified in paragraph 19 except the patents and applications themselves? including specifically in subparagraph B of category 19, all other documents relating to the prosecution or examination of each such patent and application?

MR. ANDERSON: No, as we set forth in our response of August 11, 1975, we will produce under the protective order, "The patent and patent applications identified as Items A and O through U in plaintiff's response to Interrogatory 81 of defendant's CID."

MR. ANDERSON: This request is

Q. And none of the other documents?

MR. ANDERSON: We will produce the applications, the foreign counterpart applications B through N under the protective order also, if you wish to see those.

MR. WELSH: And also you will include documents relating to the examination and prosecution of each patent application?

MR. ANDERSON: No.

MR. WELSH: So you are refusing, then, to produce all the documents identified in paragraph 19 except the patents and applications themselves?

MR. ANDERSON: I think our language in the August 11, 1975, response is clear. Yes.

MR. WELSH: Well, okay, I just provided you in Chicago with summaries of these documents. The documents themselves are, as set forth in paragraph 20, "Sales invoices and other records of Magnavox evidencing the monthly sales by units and dollar amounts of its apparatus embodying the alleged inventions of said patents from the initial sale to date."

MR. ANDERSON: This request is



directed specifically to records of Magnavox.

Mr. Williams, whether MR. WELSH: True. While we are together, however, I wanted to determine about the production by Magnavox of those. There was an objection to the request insofar as it requested production of documents in Fort Wayne. The documents we requested being primarily located at the Magnavox facility in Greenville. The response went on to state that the plaintiffs would produce the documents after entry of an appropriate protective order and at the location where the documents are usually and customarily retained. Have those Magnavox documents been made available, Mr. Anderson?

MR. ANDERSON: No, our position is as set forth in our August 11, 1975, response to your request for production. However, we have provided you in Chicago with summaries of these documents. The documents themselves are, and as are the summaries, subject to a confidential protective order. To produce the documents you have requested in Chicago would be unreasonable and burdensome. You can see them, if you insist, in Greenville.

MR. WELSH: Do you know, and.

Mr. Williams, whether the summaries are among those  
(discussion off the record.)  
that have been produced or are now available?

Q. Mr. Seligman, I was MR. WILLIAMS: I believe that  
they are among the documents that were produced  
in August. As of Magnavox, I asked if Sanders

received any copies MR. KATZ: Excuse me, I am  
pretty sure Jim is right. Strictly from memory,

A. I believe that I think I did inspect those in  
August, but I have a catalog of documents I think  
from that inspection which would determine whether

Q. or not that document was available, but, in any  
event, it would be available now? in paragraph

21 evidencing month MR. WILLIAMS: Sure. Itures  
of Magnavox?

A. MR. ANDERSON: Mr. Welsh,  
just glancing at the request, I think we can skip  
Q. over 22 and 23, they also request Magnavox documents  
and this witness, I think, is not qualified to

testify on those paragraphs and the answers as set  
forth on August 11, 1975, were the same and, as I

A. understand it, are the same today as our answer to

Q. paragraph 21. As to paragraph 23, has Sanders

received any copies of Magnavox records showing

numbers of units and MR. WELSH: Off the record.

apparatus embodying the same inventions and  
(Discussion off the record.)  
patents?

Q. Mr. Seligman, I was about to ask, although paragraph 20 sets forth sales and invoices and other records of Magnavox, I asked if Sanders received any copies of such documents which then would be subjected to production here, I believe?

A. Sanders, to my knowledge, did not receive any documents showing the monthly sales by units and amounts. I would like to ask at this time where are

Q. And has Sanders received copies of any business records of Magnavox as set forth in paragraph 21 evidencing monthly advertising expenditures of Magnavox?

A. No. MR. WELSH: 21, 22 and 23.

Q. And I asked the same question with respect to business records of Magnavox evidencing monthly sales expenditures as called for in paragraph 22 of the attachment?

A. No., elsewhere, but those are the two places that

Q. Also with respect to paragraph 23, has Sanders received any copies of Magnavox records showing

numbers of units and times of manufacture of its apparatus embodying the alleged inventions and patents?

A. No.

MR. WELSH: Mr. Anderson, with respect to your comments regarding paragraph 21, 22 and 23, it is stated that plaintiffs object to the paragraph as requesting documents insofar as it requests documents in Fort Wayne, which documents are not usually and customarily maintained there. I would like to ask at this time where are the documents which are identified in these paragraphs located?

MR. ANDERSON: With respect to which paragraph? that information?

MR. WELSH: 21, 22 and 23.

MR. ANDERSON: I don't know the answer to that in its entirety. I believe there are some in Greenville, Tennessee, and there are some in Fort Wayne, Indiana, and there may be some elsewhere, but those are the two places that I believe there might be documents responsive to any one of these three paragraphs.

then in response to "MR. WELSH: Well, Mr. Briody who represents and is house counsel for Magnavox is here, perhaps he knows and could tell us at this time.

MR. ANDERSON: Well, I would like to get this witness finished and out of here and the subject of Magnavox's production should not have been handled some time ago, it seems to me. We filed our response on August 11. The search was done before that and I don't remember and I don't think it is fair to press him to try to remember during the middle of a deposition of Arthur Sanders. of these specific documents?

MR. WELSH: Well, will you furnish us with that information?

MR. ANDERSON: At an appropriate time, yes. Ask us another time or write us a letter.

MR. WELSH: Do you know the information now?

MR. ANDERSON: I do not, I have told you all I know.

MR. WELSH: Will you do it all.

then in response to a letter? refuse.

Turning to paragraph MR. ANDERSON: Certainly.

Mr. Seligman, re ques MR. KATZ: Maybe Mr. Briody would know. f Sanders Associates evidencing

commercial success of MR. ANDERSON: I would like

you to finish with Mr. Seligman. He has been on

the stand for almost two days to identify documents

and models, he does have a job and has other things

to do. these documents which merely reflect the

information referred MR. WELSH: And I take it that

you refuse to permit Mr. Briody to tell us if he

knows the answer to these three questions regarding

location of these specific documents?

A. As I previously test MR. ANDERSON: I would like

you to finish with Mr. Seligman. Her amounts of

apparatus embodying MR. WELSH: You are not going

to ask Mr. Briody to give us that information?

when we prepared that MR. ANDERSON: That is was

correct. documents which have been produced for

you today here relat MR. WELSH: We are here. s might

be referred to as re MR. ANDERSON: We will be here

again, Mr. Welsh, don't worry about it.

MR. WELSH: I am sure we will.

Very well, if you refuse, you refuse.

Q. Turning to paragraph 24 of the attachment, Mr. Seligman, requesting business records and documents of Sanders Associates evidencing commercial success of the alleged inventions of the 284, 285, 480 and 058 patents involved in these matters. The response was, "Plaintiff Sanders has no such business records or documents other than those documents which merely reflect the information referred to in request paragraph 20." Have those documents which merely reflect the information referred to in request paragraph 20 been produced?

A. As I previously testified, we do not have documents evidencing monthly sales and dollar amounts of apparatus embodying the alleged inventions.

MR. ANDERSON: Mr. Welsh, when we prepared that response, all we meant was that the documents which have been produced for you today here relating to reports to Sanders might be referred to as relating on that request and you have all of those documents.

MR. WELSH: Thank you.

Q. Paragraph 25 sets forth documents with respect to "The preparation, filing and prosecution of the application for reissue of patent 3,659,285 and any other reissue applications relating to said patents." That paragraph, the corresponding paragraph of the request was responded to by plaintiff's objection to the request insofar as it requests documents for which a proper claim of attorney-client privilege or attorney's work product may be made and listed and identified some twenty-nine documents; have all other documents than these twenty-nine identified documents been produced? That is, those which have been called for in paragraph 25?

A. I believe we produced the reissue application for patent 3,659,285 as well as - - - I don't understand what you mean by said patents and the rest of that.

Q. Said patents in an earlier portion I believe refers to the patents involved in this litigation.

A. I believe we have produced them.

Q. That would be the 284 reissue application as well as 285?



A. I believe we produced both the 284 and 285 in the application.

Q. In their entirety except for these letters set forth in the response to the paragraph? information

A. I believe so.

MR. ANDERSON: Mr. Welsh, I understand the applications were first produced for you here on a trip in July, then further documents relating thereto were produced in Chicago in August and those constitute all of the documents relating to those two reissue applications except for the documents which have been withheld on the grounds of privilege and work product.

wondering when we might MR. WELSH: And there are not subsequent documents that have been withheld that are not listed here in the response to paragraph 25? Look it up and advise you. Seeing

it will be a writing, MR. ANDERSON: I can't tell you that; I don't know the answer to that. sort.

MR. WELSH: Well, would you determine that and if there are additional documents which have been or which have not been produced for any reason, would you advise us as

to such documents, identify them and give us the reason?

MR. ANDERSON: All right.

MR. WELSH: Is that information available here?

MR. ANDERSON: Not in this room here.

MR. WELSH: But in this location at Sanders?

MR. ANDERSON: In part at least. It would only be documents that Sanders might have.

MR. WELSH: Well, I am wondering when we might expect you to furnish us with this information?

MR. ANDERSON: When we have a chance to look it up and advise you. Seeing it will be a writing, I doubt if we can do it in a matter of minutes or anything of that sort.

MR. WELSH: Well would it be possible to check with respect to those documents that are here?

MR. ANDERSON: To the best

of our knowledge, there is nothing, but we will, in due course check.

MR. WELSH: Well, I am asking with respect to the documents at least which are here, could that check be made sometime before we leave or finish up next week?

Q. Did you check earlier on this information to respond to these requests?

Q. Paragraph 26 referred to the work assignments of each of the named inventors of said patents, other than the alleged inventions of said patents, prior to August 21, 1969, wherein such assignments involved or related to the use of a cathode ray tube and circuitry for causing images to be displayed on the CRT and for detecting or responding to coincidence of such images. The response is that there are no such work assignments or any documents related thereto. Did you recheck to determine whether there were such work assignments in your search following receipt of the subpoena?

A. MR. ANDERSON: I object, we didn't consider the subpoena of any effect other than to the notice of taking this deposition.

If you mean the notice of taking the deposition,  
I have no objection.

MR. WELSH: Well, the notice.

THE WITNESS: We did not  
recheck because it was referred to work prior  
to August 21, 1969.

Q. Did you check earlier in attempting to obtain  
information to respond to these requests?

A. I am sure we must have because we certainly  
did answer it that there were no work assignments.

Q. Were records of work assignments of the inventors  
available? That is, assignments prior to  
August 21, 1969, available at the time that you  
made the search for information to respond to  
the request.

A. Actual records are only kept by the company regarding  
certain projects or time that they charged to  
certain projects. I don't know and I haven't  
checked if anything is available prior to this time,  
but it is a terrible burden to check work  
assignments because I believe they are filed on  
a month-by-month or week-by-week basis and all  
they do is give task codes or some coded designation

of a job. and he said by codes and there is no

Q.

Do you know how that information is filed?

MR. ANDERSON: Objection;

what information? About work assignments falling within the definition of paragraph 26?

MR. WELSH: I am asking if

information regarding work assignments of the inventors prior to August 21, 1969, exists or if existed at the time that the response to the request for documents was being prepared; and then after finding that out, I expect to inquire as to whether that information was checked to see whether the assignments of the inventors involved the further definition of paragraph 26. Is that correct in that the witness did MR. ANDERSON: Well, that he object, I think you have asked both of these two questions and the witness has already answered both of those questions. MR. ANDERSON: And that it

is a terrible burden. MR. WELSH: I believe he stated that the work assignments, information it regarding that, is filed on a month-to-month or week-by-week basis. MR. ANDERSON: I don't

distinguish the two MR. ANDERSON: He went farther

than that and he said by codes and there is no way to search it. MR. WELSH: Well, I didn't understand that he said there was no way to search it.

MR. ANDERSON: Well, I think he said it would be an impossible burden or something like that. You can have it reread if you want to. Mr. Reporter, can you read back that response?

Paragraph 28 of the (Whereupon, the requested documents relating to response was read by operation, testing and the reporter.)

MR. WELSH: You are correct in that the witness did answer the question, that he did not check prior for those records, prior to this date. It would be produced for inspection by defendant. You have MR. ANDERSON: And that it is a terrible burden. MR. WELSH: You said that it was an impossible burden, I do believe.

MR. ANDERSON: I don't distinguish the two in any significant way.

Q. The next paragraph 27 involves drawings and specifications for Magnavox Model 1TL200; does Sanders have any such document?

A. In searching for the documents, I couldn't or didn't receive such documents.

MR. ANDERSON: Documents in response to paragraph 27 have been produced by Magnavox.

MR. WELSH: I was just asking to be complete about whether we had such.

Q. Paragraph 28 of the attachment sets forth all documents relating to the design, construction, operation, testing and demonstration of the Sanders models referred to in plaintiff's response to defendant Midway's Interrogatory No. 56, which relates to the prototypes and it was stated that those models would be produced for inspection by defendant. You have produced some models and identified them this morning, are those the models which were referred to in the response to Midway's Interrogatory No. 56?

A. Yes.

Q. Are there any other models of Sanders relating to the first prototype of a video or television-type game device developed by or for the Plaintiff Sanders?

A. To the best of my knowledge, there are not.

Q. Paragraph 29 sets forth, "All documents and things requested to be identified in "Defendant Midway's

A. first set of interrogatories to Plaintiff Sanders Associates, Inc. (Nos. 1 through 81)" and "Defendant

A. Midway's first set of interrogatories to plaintiff the Magnavox Company (Nos. 1 through 81)" and

either identified or offered to be produced in plaintiffs original and supplemental responses to such interrogatories, including Interrogatories

Nos. 4, 5, 6, 7, 8, 9, 10, 11; 12A, B, C, D, E, 20, 22, 23, 42, 49, 56, 75, 76, 77, 78, 79, 80 and

81." The interrogatory of Midway No. 4 asked for identification of documents relating to the preparation of filing of the applications for

284, 285, 480 and 058 patents and the response

was see the produced documents. Have those documents already been produced?

A. All these documents, as I have said, a number of



times today were gathered by my associates and myself and handed over to our counsel, Mr. Williams.

Q. There is overlap here with some of the requests also, I just want to be sure that we have covered everything here. The Interrogatory No. 5 related to the prosecution of the 284 patent and is the same thing true with respect to those documents?

A. Yes.

Q. And six refers to the 285 patent, have all those documents been produced, too?

A. They have been given to Mr. Williams.

MR. WELSH: And do I understand correctly, Mr. Williams, that they either have been produced or any documents withheld in those interrogatories have either been produced, have been identified?

MR. ANDERSON: We took the documents that were delivered to us and went through them and compared them to the paragraphs and tried our best to fit them into the paragraphs and produced everything that should be produced other than something that was not produced because of attorney-client privilege or attorney's work product and that has been specified.

MR. WELSH: And is that true with respect to all interrogatories listed here, 4, 5, 6 and so forth in paragraph 29?

MR. ANDERSON: Well, I believe so, let me consult with Mr. Williams. I think the only other proviso would be without checking each one of these interrogatories, there may be some where we specifically raised an objection in our response of August 11, 1975, and you would have notice of our objection and withholding based upon our documents filed August 11, 1975.

MR. WELSH: So that in general, the documents have been - the documents identified in these interrogatories have either been produced, objected to for reasons other than attorney-client privilege or work product?

MR. ANDERSON: It is fully set forth in our paper which we filed on August 11.

MR. WELSH: And if objected to on the attorney-client privilege or work product basis, they have been identified, those which will not be produced for those reasons have been

identified?

MR. ANDERSON: Those have been identified on a document-by-document basis with date, address or addressee or other appropriate identifier.

MR. WELSH: Now, there was a statement in response to paragraph 29 that there were no documents identified or offered to be produced by plaintiffs in response to Midway's Interrogatory 11. That, I believe, asked for identification of all foreign applications filed, corresponding to each of the four patents which I just listed indicating the respective correspondence, respective patent numbers and the references cited during the prosecution. There was an objection in the original answers to the producing of documents with respect to the 480 and 058 patents, but then there was a listing with patents corresponding; that is, foreign patents corresponding to use 3,659,284 and 585, so it appears that this statement and the response regarding - that is, the response to paragraph 29 of the request and the attachment stating that no documents were

identified in response to Midway's Interrogatory 11, appears to be an error. . . .

MR. ANDERSON: No, we didn't try to specifically identify a specific document, we identified a patent application and supplied the information that was requested in the interrogatory. We did not offer to produce the document in response to Interrogatory 11, we just gave the information that was requested. . . .

correct. . . . MR. WELSH: Well, I believe there were documents identified in that response, were there not?

MR. ANDERSON: Well, the interrogatory is a request for identification. . . .

MR. WELSH: Yes, and the request for production was to produce the documents either identified in - well, the request was to produce all the things requested to be identified in those specific interrogatories. . . . I think you have done it.

MR. ANDERSON: We identified foreign patent applications corresponding to the 584 and 585 patents. . . .

MR. WELSH: Right, in response to our Interrogatory No. 11. We're identifying a patent application in MR. ANDERSON: That is

correct. Thinking of that as a single particular document.

MR. WELSH: And you did a similar thing in your supplemental answer when it you answered that interrogatory with respect to the 285 and 058 patent.. ANDERSON: I don't care

what you call it. It MR. ANDERSON: That is correct. At when we answered. We listed all patent applications by count MR. WELSH: And paragraph 29

of the attachment and the request asks for all documents requested to be identified and in all of the interrogatories, but specifically setting forth 11 and that is either identified or offered to be produced in an original and supplemental responses to the interrogatories.

MR. ANDERSON: And we have produced the applications which have been identified, if that is your point.

MR. WELSH: Well, that is my point. The response states that there were no documents identified.

it whether it is a document. MR. ANDERSON: I think we were  
are hung up on semantics. We were identifying a  
patent application in a very abstract sense. We  
weren't thinking of that as a single particular  
document. MR. WELSH: Would you call it  
a thing? MR. ANDERSON: I don't care  
what you call it. It is a file number as much as  
a document when we answered. We listed all patent  
applications by country and number. We did not  
think of them as documents, but merely as an  
identifying number. We have produced copies of  
the patent applications which bear those numbers  
and I don't know how I can say it any more  
specifically than that. So if you want to say  
our answer was an error in that a patent application  
is not only a number, but it is also a piece of  
paper, I agree with you. MR. WELSH: Well, I think  
it certainly is a thing and we called for documents  
and things, but apart from that - MR. ANDERSON: But we produced

it whether it is a document or a thing or whatever it is. In the order of 80 to 100 files, I haven't counted them.

MR. WELSH: That is what I was leading up to. That there are identified in your responses to - your response and supplemental response to Interrogatory 11 - certain foreign patents or patent applications which correspond to the four patents involved here, the 584, 585, 480, and 058 patent and you have produced a large number of foreign application files which we have inspected. We did not make a check of those files against those listed in your response, and the supplemental response to Interrogatory 11. I would rather than have Mr. Seligman go through those application files folder by folder and identify them, can we have the same stipulation with respect to these that we had earlier regarding the applications identified in the response to CID Interrogatory No. 81; namely, that you have produced all of these files of the foreign applications corresponding to those listed in your response to Interrogatory 11 and supplemental response to Interrogatory 11? Following listing,

MR. ANDERSON: Yes, it is something in the order of 80 to 100 files, I haven't counted them.

MR. WELSH: Right and this is where I wanted to avoid going through them all with Mr. Seligman, filing or prosecution of all such foreign patent. MR. ANDERSON: Right, as far as as I know, we have produced them.

Q. Now, I had another request with respect to Interrogatory 12, filing and prosecution of all such foreign patent. MR. ANDERSON: Interrogatory 12? was, see the produced. MR. WELSH: Right, and the response in our document request relating to Interrogatory 12. Those documents related to the foreign patent applications and there are five sections. The first paragraph A, all communications with respect to foreign patent offices. It was indicated that those would be produced. All communications between the inventors, Sanders Associates and foreign associate or agent representing them in the respective foreign patent offices; and the response there was see the produced documents. And the following listing,



A through BB, certain other letters or other communications, they are all letters, apparently, with various foreign associates of Sanders in handling these various applications. With respect to category C, which was all memoranda relating to the preparation, filing or prosecution of all such foreign patent applications, the response was see the produced documents. Under D, all those communications with outside counsel relating to the preparation, filing and prosecution of all such foreign patent applications and the response was, see the produced documents. And all other communications relating to such foreign patent applications and patents which issued from said applications and/or any attempts to enforce or license any of such foreign applications or patents; and again the response was, see the produced documents. Now, those were the original answers to with respect to the 284 and 285 patents. The supplemental answers regarding 480 and 058, A through E, was see the produced documents. In other words, as I understand it, except for the objection to the original Interrogatory 12 because

it related to the 480 and 058 patents, there was no objection to any of these documents and they were offered to be produced. Then with respect to 480 and 058, similar answers were given in the supplemental response to Interrogatory 12. Now, have those documents been produced? I find that subsequent to the interrogatory answers and in response to our request for production of those documents, you have now withdrawn some as being subject to the claim of attorney-client privilege or attorney's work product and you have listed some fifty -two letters. You also are now objecting to subparagraph E for the reasons stated in your response to subparagraph 3C of our request which was the objection that the documents were neither relevant nor reasonably calculated to lead to admissible evidence. Although you stated that you would produce the other documents, I would like to ask first, Have you produced all of the documents which you said you would produce in response to the original response, the supplemental response to No. 12?

MR. ANDERSON: I will have to

confess that I completely lost track of the rambling narrative, but I will state that I think we have produced everything that we think should be produced under Interrogatory No. 12 or based on a production under Interrogatory No. 12.

MR. KATZ: Well, originally you did not object or refuse to produce any of the documents identified in Interrogatory 12; that is, originally with respect to the 284 and 285 and subsequently with respect to the 480 and 058 patents.

MR. ANDERSON: Well, I don't know exactly what you mean. To the best of my knowledge, we have not previously shown you some documents that we are now trying to take back from you or anything of that sort. You confuse me when you use that kind of a term.

MR. WELSH: Well, originally you stated you would give us all of those documents, then, in response to your request for - -

MR. ANDERSON: Where do you find that we will give you all of what documents?

MR. WELSH: We asked for all

the documents in 12 and you say see the produced documents in your statement leading up to your responses to all of the interrogatories. You stated instead of identifying documents, you would produce the documents, which I construed as an offer to produce documents. There being an objection that they were neither relevant nor privileged and within the scope of the request. MR. ANDERSON: Documents which are relevant and not privileged and within the scope of the request. MR. ANDERSON: Well, it is a catch-all paragraph. MR. WELSH: There was no objection on privilege that you call and there was no objection that they called for privilege in the original and supplemental response to Interrogatory No. 12. or license any such foreign applications or patents. The objection. MR. ANDERSON: Well, I don't know what you have in mind, but I think it is immaterial whether you feel that we had some collection of documents in one month and when we went through them we found some of them were privileged and before we showed them to you, they claimed them as privileged, I think that is immaterial. We said we will show you the documents in response to the interrogatory and that is what

we mean, and we have produced them or identified them.

Myself clear. We consider them irrelevant

and not producible. MR. WELSH: Well, you have

subsequently stated you would not produce any

documents in response to paragraph E and you did

not identify those. There being an objection that

they were neither relevant nor reasonably calculated

to lead to admissible evidence. Different people,

Different products, MR. ANDERSON: Well, E is

a catch-all paragraph. We were referring to a

part of E. We have produced many documents which

probably would fall under E. A great many.

efforts particularly MR. WELSH: Any attempts to

enforce or license any such foreign applications

or patents. The objection was that the documents

were neither relevant or reasonably calculated

to lead to admissible evidence. My question is,

Are you going to persist in that objection or will

you produce those documents? There are U. S.

patents involved, MR. ANDERSON: We think they

are irrelevant to any issue in this litigation.

and also parties to MR. WELSH: And you are going

to persist in the objection?

MR. ANDERSON: Maybe I didn't make myself clear. We consider them irrelevant and not producible in response to any proper interrogatory or request based on the issues in this action as far as we know. I think it is totally immaterial what licensing efforts are made under foreign patent rights which are governed by different laws and related to different people, different products, perhaps.

MR. WELSH: I would like to consider this discussion under our local rules in this regard. We believe that the licensing efforts particularly are relevant and may lead to admissible evidence. Licensing practices in foreign countries can be related to misuse of U. S. patents.

MR. ANDERSON: I disagree. I don't think licensing efforts abroad can be misuse of U. S. patents unless there are U. S. patents involved; and, if there were U. S. patents involved, I believe they would have been produced and accompanied in another section, if any of the patents in suit are involved.

12, they are listed as those that you  
MR. WELSH: Now, in your  
response to paragraph 29, there were listed some  
fifty-two letters which you stated you would  
not produce with respect to Interrogatory 12 as  
being subject to attorney-client privilege or  
attorney's work product. As noted earlier, there  
were identified in the response to Section 12 or  
Section B of Interrogatory 12, documents lettered  
A through Z, AA through AZ and BA and BB, which  
would be some fifty-six documents. All of those  
listed in the response to Interrogatory 12 are not  
included in the list in response to request  
No. 29. My question for you is, Have you produced  
those or, if not, will you do so to the extent  
that they are not listed in the response to request  
No. 29?

MR. ANDERSON: I am not sure  
I understand you again. We have listed a group  
of documents in response to request 29. We have  
listed a group of documents in response to  
Interrogatory 12.

MR. WELSH: Now, you identified  
them in Interrogatory 12 and in response to



request No. 29, they are listed as those that you refuse to produce. There are some that you simply identified in the response to Interrogatory No. 12 that are not included among those you have stated you refused to produce for attorney-client or work product reasons. you have in mind, I can tell you, but I don't have. MR. ANDERSON: Either of these lists was intended to supercede the other. They are both lists on which we stand. And if you say if a document appears on one and not on the other, are we indicating that that document is to be produced, the answer is no. If it is on either list, we consider it to be privileged and we are not producing it. which of those documents that are listed in re MR. WELSH: Well, that would seem to be inconsistent with your identification in your response to Interrogatory No. 12 because there was no indication that you would not produce it at all. In fact, the contrary indication was made that that was - you made no representation, I should say, so I am asking you now, Will you produce those documents that appear on the list in response to Interrogatory 12, but do not appear



on the list in response to request No. 29 where you state you will not produce them? apparently have not MR. ANDERSON: I can't tell you without looking at the lists side by side on a document-by-document basis; and, if you want to list the ones that you have in mind, I can tell you, but I don't have those lists well enough in my mind to know if there is some error or inconsistency or the like which we would have to correct. We stand on our identifications.

it. MR. WELSH: Well, we noted some of them. What I would like to ask is, while we are here; that is, before we leave next Wednesday, you identify which of those documents that are listed in response to Interrogatory 12 and are not present in the list that you have said you will not produce under request No. 29 and tell us whether you will produce them or whether you refuse to produce them. We have filed subsequent interrogatories with respect to all of the documents listed in response to the request for documents of which you stated you would not produce for us and we have solicited specific

information with respect to each of those documents.  
Now, we have found these other documents which  
apparently have not been produced, we don't know  
whether they have been or not.

MR. ANDERSON: Well, I am  
sorry; if you have a document which you say we have identified  
and haven't produced, maybe it fell between a crack  
or maybe it is on one of these lists. Give me an  
identification of any of the documents that you  
specifically have in mind and we will check into  
it. Some way you want. I couldn't do it if I

MR. KATZ: We can't tell  
because they are identified two different ways.

MR. WELSH: What we would  
like to do while we are here is have those  
documents which are included in the Interrogatory  
12 response, but not in the request No. 29 response  
which you will not produce for us so that we can  
make the same inquiries with respect to those  
through the appropriate people here that we made  
with respect to all of the documents that you have  
refused to produce, but have identified in your  
response to our request for documents. In other

words, we are trying to go forward here to have a determination of the propriety of the claims of privilege and attorney work product.

MR. ANDERSON: Well, I am sorry; if you have a document you want us to tell you something about, ask about that document. It is Friday afternoon, a little after three, maybe I am getting a bit jaded, but I am not tracking with you at all. We certainly are not going to go through all of the documents and try to assemble them some way you want. I couldn't do it if I tried because I don't know what you want.

MR. WELSH: Well, we will ask you, Have you produced the documents requested in Interrogatory No. 12?

MR. ANDERSON: As far as I know, we have produced all documents except those that we are claiming attorney-client privilege on or which we have objected in one of the specifically stated objections in the request for production of documents.

MR. WELSH: So that you are then making the statement that you have produced

those documents which are identified in response to Interrogatory 12 which are not listed in response to request No. 29?

MR. ANDERSON: Or with respect to which we haven't somehow claimed privilege or objected on some other ground that is set forth in the various papers that we have filed.

MR. WELSH: So you represent that those have been produced then?

MR. ANDERSON: I am sorry, every document listed in response to Interrogatory 12 responded to your request of whether or not we would produce it and we said no.

MR. WELSH: Where did you say no? I would like to know where you said no?

MR. ANDERSON: Do you have the introductory paragraphs to your paragraphs that included interrogatory 12? That is the answer. I presume I don't have it either, so I can't be sure, but in identifying every document that we listed in response to Interrogatory 12, there are listed A, B, C, D, E, F and G; and G, as we recall it, said, Will you produce the

documents? And, in every case, our response is no. Mr. Williams points out that we discussed this specific point back in July.

MR. WELSH: Okay, that answers my last question, then.

MR. KATZ: Some of these were repeated in 29 in your response to request 29 and others were not and even though they were related to the answers to the same interrogatories. One said see produced documents except for the following, or essentially that is what you are saying when you gave the answer to Interrogatory 12; but then when you prepared your answer to document request 29 corresponding to the same interrogatory, there was a different set of documents that you identified as not being produced and, because there were two different lists and some were on both lists and some weren't, that is where there was a lot of confusion as to whether or not you changed your mind with respect to some of them and produced them. MR. ANDERSON: That is not the case and I don't think we ever represented that

one list superceded the other and if there happened to be some overlapping, that is out of an abundance of caution perhaps. Now to try to do it the way you suggest. MR. KATZ: Perhaps of the hundred files or so that were there, we didn't know whether a document was supposed to be there or not supposed to be there when we compared a document with this list to know if you changed your mind during this interim. In Empire's

Interrogatories 4 and 5. MR. ANDERSON: It is even possible that the same document could appear in two different files and be listed twice. It happens frequently in my experience in litigation. In other

words, not produced. MR. KATZ: Would it be possible if we provide you with those documents listed in request 29's response to have those available here for a witness to testify to with respect to the information that we sought regarding all of the other documents that were listed as not being produced? That would save time in the service of additional interrogatories and answers similar to those corresponding to Empire Interrogatory

No. 5.

to your interrogatory. MR. ANDERSON: I think it is far more appropriate to do it in a written document. It is going to be extremely slow to try to do it the way you suggest. I am not saying you can't or don't have the right to, but I think it is going to be extremely belabored. It will require extensive consultation with counsel and it will not be productive.

MR. ANDERSON: I think it is the response. MR. KATZ: In Empire's Interrogatories 4 and 5 to which we have received plaintiff's responses, there were I believe specifically with Interrogatory No. 5 which related to the documents not produced in their entirety - in other words, not produced at all. - and with respect to either a claim of attorney-client privilege or attorney's work product. And I couldn't find any reference in these answers to these documents, originally identified as not being produced in answer to Interrogatory No. 12. It seemed that that was cause for concern that there was a change of mind with respect to these interrogatories, so perhaps maybe these responses were incomplete.

in the request.

MR. ANDERSON: No, we responded

to your interrogatory which referred to plaintiff's response to Midway request for production of "In August 7, 1975. pence to Midway's request for production of August MR. WELSH: Which in turn inated paragraph 29 referred to Interrogatory 12 and the documents or things identified in that interrogatory. Now, if you wrote the wrong interrogatory, don't MR. LANDERSON: I think it is the response. Our response listed documents that and you--what the response is.

MR. WELSH: But it didn't list those, that is the whole point here. It only listed part of those in the fifty-two that were the response to Request No. 29, and Request No. 29 referred to Interrogatory No. 12 and the documents and things identified in that original and supplemental responses to those interrogatories, and 12B, with certain of these documents that we have not been provided the information. interrogatory that didn't ask what MR. ANDERSON: You never asked for the information. or phrase one; and, rather than keeping MR. WELSH: It is right there in the request. by and wasting a lot of time, I don't



think it really matters. MR. ANDERSON: But it is not in the response, and the interrogatory is 5A, "In plaintiff's response to Midway's request for production of August 7, 1975, plaintiff's enumerated documents." Then you ask about documents which we enumerated and we responded fully to the interrogatory. Now, if you wrote the wrong interrogatory, don't tell us we didn't give you a complete response. It is the interrogatory that determines what the response is.

I agree with you that. MR. WELSH: It was the response that - either the response was incorrect or your interrogatory answer was - that is, the Empire interrogatory answer was incomplete.

we will serve new interrogatories. MR. ANDERSON: Nothing of the kind, your interrogatory was poorly phrased and now you are trying to generate some sort of silly blame or something. Why don't you just face up to the fact that you asked an interrogatory that didn't ask what you intended to ask and now you want to ask another one or phrase one; and, rather than keeping this reported pushing that machine endlessly and wasting a lot of time, I don't

think it really matters, but if you want the more complete answer or a different answer or an additional answer, ask another interrogatory.

We can argue all day whether your interrogatory was defective or our answer was defective, but I think the interrogatory speaks for itself.

(Whereupon, a recess was taken.)

MR. WELSH: Mr. Anderson, I agree with you that perhaps it is a question of semantics or a matter of arguing as to whether responses were complete or whether the interrogatories were properly worded. In order to expedite matters, we will serve new interrogatories to handle those documents which are included in Interrogatory 12 response and not included in the response to Request No. 29.

MR. ANDERSON: All right. I don't insist that you do that, but I think that is the best procedure.

MR. WELSH: Well, unless you will agree to provide it.

MR. ANDERSON: No, I was being facetious. I wouldn't mind if you left out the whole thing. I can't say whether or not it is all in those files.

MR. WELSH: The only other matter remaining is in connection with Request No. 3 and the corresponding paragraph of the attachment to the subpoena and the notices of deposition. There was some confusion as to just what correspondence had been produced; that is, correspondence between Magnavox and Sanders. There had been copies of some produced without portions expunged, copies of others produced with portions expunged, and, so far as I know, there were other correspondence that no copies were produced; and today you brought three files marked respectively Magnavox No. 637 correspondence through 1973, Magnavox File No. 637 correspondence 1974, and Magnavox No. 637, 1975. I ask if these are all of the files of correspondence with Magnavox which Sanders keeps?, did you give him just these three files?

MR. ANDERSON: I think that request you will have to ask of the witness.

MR. WELSH: Mr. Seligman?

handed over to him, THE WITNESS: I turned over all correspondence between Magnavox and Sanders to Mr. Williams. I can't say whether or not it is all in those files. the two parties and gave it to him. I can't say MR. WELSH: Now, I didn't ask if all of the correspondence was in these files, I asked if these are the only files that you keep of correspondence with Magnavox?

For example, I think THE WITNESS: There may be other correspondence which appears at some of the patent files which have been produced here today, anyway, but I would assume that a copy would have gotten into those files. I don't know any other files that would contain correspondence between Magnavox and Sanders that has not been gathered during my search. THE WITNESS: At the present time, I can't think MR. WELSH: Well, specifically when you gave Mr. Williams what I believe you described as all of the correspondence between Magnavox and Sanders, did you give him just these three files?

THE WITNESS: Principally with Mr. Stiller, some for THE WITNESS: I can't say that for sure. There were so many files that I

handed over to him, whether it was all contained in that, I cannot say. All I can say is that I gathered, to the best of my knowledge, all the correspondence between the two parties and gave it to him. I can't say that it was all in those three files. Certainly I know of -- I can think of other files that were given to Mr. Williams that had correspondence between the parties. For example, I think earlier we produced the royalty reports which certainly I guess did not show up in those files, but in other files. That has been gathered. MR. WELSH: Any other files less than these that you can remember that you turned over to him that contained correspondence between Magnavox and Sanders? THE WITNESS: I turned over File 637 to Mr. Williams. THE WITNESS: At the present time, I can't think of any others. And in File 637, were there any others? MR. WELSH: Do you know with whom Magnavox corresponds in the Sanders' organization?

THE WITNESS: Primarily with Mr. Etlinger, some correspondence with myself, possibly some with Mr. Baer; I am not sure of

that, though. a witness about them. There is one that bears the name MR. WELSH: Primarily with the Patent Department? WSH: That is the one that contains the 68 THE WITNESS: That is correct.

MR. WELSH: Other than the royalty report files and these three files which were produced this morning, does the Patent Department keep or has it kept any other files of correspondence between Magnavox and Sanders?

the witness about. THE WITNESS: If it has, it has been gathered. To my knowledge, anything that has been gathered has been given to Mr. Williams. weren't very specific MR. WELSH: Did you turn these files of 637 over? files that pertained to the

present subject matter THE WITNESS: I turned over File 637 to Mr. Williams. subject matter and I

haven't looked at them MR. WELSH: And in File 637, were there any others than these three folders?

are interested in them THE WITNESS: I can't only recall.

MR. ANDERSON: There is another one marked 6 MR. ANDERSON: Well, Mr. Welsh, there are some other folders that bear the name, No. 637, all of which have been produced and you

have asked the witness about them. There is one that bears the File 637MHG. Now, we have here five folders. MR. WELSH: That is the one that contains the 687 crossed out? to the table of the folders. MR. ANDERSON: That is correct. Another one marked "Executed Agreement (637)". There is another one marked drafts of agreement filed 637, all of which have been produced and you have seen and you have asked the witness about. THE WITNESS: It only contains a number of THE WITNESS: In those other questions regarding Magnavox-Sanders files, they weren't very specific and I would like to clarify my answer, those files that pertained to the present subject matter. There might have been 37, some that concerned other subject matter and I haven't looked at those. MR. WELSH: We, of course, are interested in the present subject matter only.

MR. ANDERSON: There is another one marked 637 royalty reports, that is all I see at the moment, but there might be more, the record will speak for itself. You have

identified a great many. that were in those files

when you turned them MR. WELSH: Now, we have

here five folders bearing the file No. 637 on

a typed written label and attached to the tabs

of the folders. There was also this other file

637, handwritten on a folder that previously there

had file No. 687 crossed out, does this folder

with the file 687 crossed out contain any

correspondence between Magnavox and Sanders?

paragraph 3 of the at THE WITNESS: It only

contains a number of patents, I don't know whether

they were obtained through correspondence through

Magnavox or not. x and Plaintiff Sanders relating

to certain identified MR. WELSH: Referring to the

other five files bearing the typewritten No. 637,

do you know whether each of these files contains

all of the documents it had in it at the time

you turned it over to Mr. Williams?

produced for Midway THE WITNESS: No.. Then there

was an objection to MR. WELSH: Did you make any

effort to determine that? at those documents

would be produced with THE WITNESS: No. as deleted,

and I believe they were MR. WELSH: Did you make any



record of the documents that were in those files when you turned them over to Mr. Williams?

THE WITNESS: No.

interim a protective MR. WELSH: Would it be possible for you to determine by examining them now whether they contain all the documents that were in them when you turned them over to Mr. Williams?

objection to subpoena THE WITNESS: No.

request of documents MR. WELSH: Now, Mr. Anderson, paragraph 3 of the attachment to the subpoena and the notices and corresponding paragraph of the previous request seek communications between Plaintiff Magnavox and Plaintiff Sanders relating to certain identified subject matters in use of paragraphs A through J, and the response to the request indicated first that plaintiffs would permit inspection and copying of the documents requested in this paragraph not previously produced for Midway except as follows. Then there was an objection to documents containing royalty rates and an indication that those documents would be produced with the royalty rates deleted, and I believe they were, and subsequently we have

production of the documents with the royalty rates under the protective order.

Q. MR. ANDERSON: Yes, in the interim a protective order was agreed to and entered into between us and then we did produce the documents unexpurgated.

MR. WELSH: Now, there was an objection to subparagraph B insofar as the request of documents dated after the filing date of the action; and subparagraph C is requesting documents which are neither relevant to the second matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Request 3B referred to sublicensing of any other party under said patents or the applications therefore. Do you persist in that objection?

MR. ANDERSON: Is your question with respect to both subparagraph B and C?

MR. WELSH: No, first paragraph B which we feel to be relevant at least to the questions of misuse and unenforceability.

MR. ANDERSON: I will do a

little checking. For the moment, we will persist in our objection to subparagraph B. I just conferred with Mr. Williams, we are not certain that there are any Sanders documents in that category, subparagraph B, and I will so advise you if there aren't. It would be unwise to fight over whether or not we will produce them if there are no documents in the category. We will let you know Monday whether there are any or not.

Q. Now, with respect to subparagraph C relating to licensing to sublicensing under any foreign patent or foreign patent application - - -

MR. ANDERSON: We believe that that subject matter is irrelevant to any issue relating to the U. S. patents and we will persist in that objection. As I stated, if a document included reference in the license to both U. S. and foreign rights, I think it would be producible and we would not use the mere presence of foreign discussion to exclude that from the production.

MR. WELSH: Now, those documents from which MR. WELSH: Now, next in from which portions were expanded and these

response to Request No. 3 is a list of eighteen documents with identifications thereof for which claim of attorney-client privilege or attorney work product was or is being made and it was stated that copies of those would not be produced. was in originally.

MR. ANDERSON: In their entirety, is that what you mean?

MR. WELSH: Yes, that is what it states. They would not be produced at all. I presume when you say the documents will not be produced in their entirety, you mean each document in its entirety would not be produced?

MR. ANDERSON: Yes, you are correct, documents 1 through 18 have been withheld in their entirety on the ground of attorney-client privilege.

MR. WELSH: And certain other documents which have been produced to us with portions expunged? files?

MR. ANDERSON: That is correct.

MR. WELSH: Now, those documents from which - the original documents from which portions were expunged and these

documents which are listed here as not being produced in their entirety, were they removed from these folders of files 637?

MR. ANDERSON: They were removed from whatever file that particular document was in originally.

MR. WELSH: Were any other documents other than those, any of those, removed from these files before they were produced for us?

MR. ANDERSON: With respect to some files, certainly documents that were unrelated to the subject matter of this lawsuit were removed. Now, whether that was true with respect to the 637 files which are so numbered and are in the pile in front of you, I don't know. Mr. Williams tells me that I am correct, certain documents were removed.

MR. WELSH: From these files?

MR. ANDERSON: From these files as irrelevant or not within the scope of any of the requests that were made and there are

a few that were removed because they are attorney-client privileged documents, but we did not have a chance to prepare a list of those and we will provide you with that list promptly.

MR. WELSH: Would that be possible by Monday also?

MR. ANDERSON: Yes, we will give you some kind of a record or read it into the record on Monday.

MR. WELSH: Well, maybe even a handwritten or Xerox copy of it or give us time and we will write it down ourselves because we won't get the record for some time. Now, of those which were removed and not furnished to us, with portions expunged or not listed or about to be listed as not being produced, did any of them fall within the categories of INJ?

MR. ANDERSON: None of them fell within the categories of any of the paragraphs. Excuse me, I and J are two to which we objected and we continue that objection in that we objected on the ground that they were broad, vague and impossible to determine whether documents would or

would not fall within the scope of that. Failing to describe the documents with reasonable particularity as required by the rules.

we are talking about MR. WELSH: Were any documents withdrawn from these folders other than those I mentioned? That is, those that were furnished with portions expunged or those for which you are claiming attorney-client privilege or work product; did any of those relate to any matter pertaining to the patents or the applications for the patents in suit here or the reissues?

are being produced MR. ANDERSON: We were very careful and thorough in comparing the requests with the documents and all I can tell you is that either they have been produced, they were excluded because they were attorney-client or work product, in which case we have identified them or they were subject to one of our various objections.

documents which have been produced MR. WELSH: Well, did any of them relate to matters pertaining to the patents or the applications for the patent or any of the reissues?

attorney-client privilege MR. ANDERSON: I don't know.

You may ask the witness if he knows. Well, I don't think you are entitled to. MR. WELSH: But he says he doesn't know what documents were withdrawn and we are talking about the documents that were withdrawn. If you furnish them to him, then I can ask him about them. MR. ANDERSON: We certainly have a right to review. MR. ANDERSON: We have complied with your request after carefully studying it and studying the documents. We will exercise that right, but we will not. MR. WELSH: Well, I think the problem, Mr. Anderson, is that the documents are being produced or not depending on your interpretation or objection to the wording of our request or the extent of it in view of your objection to sections I and J of paragraph 3, and we don't believe that we should be limited to rely on your interpretation. Therefore, I would like to request an identification of each of the documents which have been removed from these files and not already furnished to us with portions expunged or which have not - I mean which have or will be identified to us as being subject to the attorney-client privilege or work product?



MR. ANDERSON: Well, I don't think you are entitled to that. I will take it under advisement.

MR. WELSH: And would you let us know about that?

MR. ANDERSON: We certainly have a right to remove documents that we don't think are producible or fall within the scope of any of your requests and we will exercise that right, but we will take it under advisement.

MR. WELSH: Well, as you indicated with respect to - I believe you indicated with respect to subparagraph G relating to misuse of the patents and H relating to antitrust violations, that is the subject of interpretation and we would like the opportunity to examine this correspondence to be able to interpret them ourselves and that is the reason that we are asking for all of these other documents.

MR. ANDERSON: Well, on that theory, you could ask for all the documents in the possession of Sanders Associates, and I don't think you are entitled to that.

there an index of it MR. WELSH: I am asking you only for the documents which were previously in the correspondence file No. 637 and which have been removed and neither furnished to us nor identified as subject to the claim of attorney-client privilege or attorney work product.

MR. ANDERSON: I do not think you are entitled to the production of a file, you are only entitled to the production of documents which are properly producible in the scope of your request. As I say, I will take it under advisement. We have stated objections to certain of your sections and removed documents relating to those subjects including foreign what licensing which you know about; and you have asked us if we stand on that objection and I told you we do.

MR. WELSH: Yes.

MR. WELSH: Well, I am asking specifically now that the documents removed from this 637 file be identified so that we can take whatever action we feel necessary to secure the production of those documents. Mr. Seligman, does File No. 637 have some identification? Is

there an index of files? Q: What does File 637 relate to?

MR. WELSH: Do you know whether File 637 relates to the Magnavox file generally? A: Yes, is it a file for that purpose?

MR. WELSH: Is there an index of these file numbers? A: Yes.

THE WITNESS: Of what is in the file? A: Documents other than correspondence relating to video games.

MR. WELSH: No, is there an index of the file numbers of the patents for Department with titles of the files in addition to the numbers?

MR. WELSH: I had one other request for documents. THE WITNESS: Yes, to make

now, Mr. Anderson, do you know what the title of this File 637 is? A: The purchase or

obtaining of the PDP-6. THE WITNESS: In the index?

Mr. Seligman testified. MR. WELSH: Yes, I like to

have copies of some. THE WITNESS: No. Sanders and

DIC, Digital Equipment. MR. WELSH: Could you furnish that information, Mr. Anderson?

MR. ANDERSON: All right.

and the PDP-11. MR. WELSH: I presume the index is kept in the Patent Department? A: Well, I think

THE WITNESS: That is true.  
MR. WELSH: Do you know whether File 637 relates to correspondence with Magnavox and video games; is it a file for that purpose? I think it is irrelevant. It is not likely to lead to any.  
THE WITNESS: Yes.  
MR. WELSH: Does it contain any correspondence other than correspondence relating to video games?  
THE WITNESS: I can't say for sure. I can't say for sure.  
MR. WELSH: I had one other request for documents which I would like to make now, Mr. Anderson, that is, I'd like to have Sanders documents relating to the purchase or obtaining of the PDP-1 computer about which Mr. Seligman testified yesterday. I'd like to have copies of correspondence between Sanders and DEC, Digital Equipment Corporation, relating not only to the PDP-1, but also another computer named PDP-6, if they have such correspondence, and the PDP-11.  
MR. ANDERSON: Well, I think

you had better put that request in the usual form under the Graduate Rules. We will process it. I think it is burdensome in that I would think such documents could be in various places throughout the company. I think it is irrelevant. It is not likely to lead to admissible evidence and therefore I think you had better file a formal request and we will take it under advisement. is yesterday.

Specifically, ~~para~~ MR. WELSH: Referring to Request No. 30 and the corresponding attachment to the subpoena and notices; that is, all documents and things known to plaintiffs dated or known prior to August 21, 1969, relating or referring to the use of a cathode ray tube and circuitry for causing images to be displayed on the CRT and for detecting and responding to coincidence of such images. The response of August 7 was that exhibits 2, plaintiffs have no present knowledge of any such documents or things other than the documents of plaintiff Sanders relating to the invention by the named inventors of the subject matters of the patents in suit, the prior art identified by defendants in this action and cited during the

prosecution of the four patents and documents referring to that prior art. Did you subsequent to receipt of the notice of deposition have Sanders make a search for any documents or things other than those which were set forth in the response to the request? yesterday?

MR. ANDERSON: I object.

We had substantial testimony on this yesterday. Specifically, paragraph 30, you mean in addition to that? The original request was subsequent to

the receipt of the MR. WELSH: Yes. Well - --

MR. ANDERSON: The question has been asked and answered yesterday, I am sure.

periodically the MR. WELSH: Well, are you referring to the Space War programs and I think they have already been marked as exhibits?

MR. ANDERSON: Yes, Exhibits 2, 3 and 4. We had the interrogation of the witness and my comments there too. It is that we are having

with respect to MR. WELSH: Was there not also Exhibit 5? Yes, I will simply adjourn the

deposition with the MR. ANDERSON: Yes, you were right. The Four is the note that accompanied three,

as I recall the testimony, and five has also been produced.

MR. WELSH: Did you search for any things under paragraph 30 and did you find anything other than these Exhibits 2, 3, 4 and 5 which were produced yesterday? Have no questions.

THE WITNESS: This is subsequent - when? MR. WELSH: Well, at any time. The original request was subsequent to the receipt of the notice of deposition.

THE WITNESS: As I think I testified yesterday, we updated continually or periodically the search for documents pertinent to the present action and provided Mr. Williams with anything that we found.

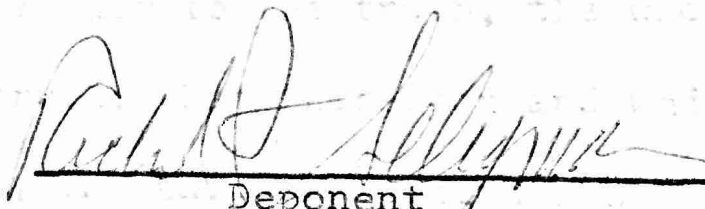
MR. WELSH: That completes my examination of this witness at this time; but in view of the difficulties that we are having with respect to agreement regarding the production of certain documents, I will simply adjourn the deposition with the view to resuming it depending upon the resolution of our disagreement.

MR. ANDERSON: All right.

MR. HERBERT: In spite of the fact that we didn't receive a notice of this witness, we will agree to have you interrogate him if you have any questions.

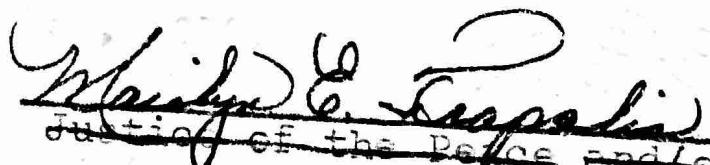
MR. HERBERT: I have no questions.

MR. ANDERSON: Mr. Seligman, you are excused.

  
Deponent

THE STATE OF NEW HAMPSHIRE )  
COUNTY OF Hillsborough ) SS.

Subscribed and sworn to before me this 23rd  
day of February 19 76.

  
~~Justice of the Peace and/or~~  
~~Notary Public~~  
Marilyn E. Trepalis  
Notary Public  
My Commission Expires March 19, 1980